IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

State of Rajasthan. Versus Manohar Singh & Anr.

S.B. Criminal Misc. Petition No. 647/2004
against the order dated 3-1-2004 passed
by the Special Judge, NDPS Act Cases,
Bhilwara, in FIR No. 270/2003, Police Station,
Mandalgarh, district Bhilwara.

...

Date of Order: October 05, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Ashok Upadhyaya, Public Prosecutor for the State.
None present for the non-petitioners.

BY THE COURT:

This criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) is directed against the order dated 3-1-2004 passed by the Special Judge, NDPS Act Cases, Bhilwara (for short, "the trial Court" hereinafter) in FIR No. 270/2003, Police Station, Mandalgarh, district Bhilwara, whereby the trial Court dismissed the application filed by the petitioner seeking police custody remand of the accused/non-petitioners No. 1 and 2.

I have heard learned Public Prosecutor for the State. Carefully gone through the order impugned.

It appears that the accused/non-petitioners were arrested on 8-11-2003 for the offence punishable under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act" hereinafter). They were produced before the Magistrate on 9-11-2003, remanded to the police custody on the request of the police on 9-11-2003 and thereafter again from 10.11.2003 to 15.11.2003 and for the third time from 15-11-2003 to 19-11-2003. However, on 19-11-2003, when produced before the Magistrate, the non-petitioners were remanded to the judicial custody. The police filed an application on 12-12-2003 before the trial Court seeking police custody remand of the non-petitioners. The trial Court did not find any valid ground to remand the accused/non-petitioners to police custody noticing the fact that earlier as many as on three occasions, the police custody remand was granted for a reasonable period, i.e. from 9-11-2003 to 19-11-2003, i.e. for 15 days and even thereafter the police did not seek the police custody remand, on the contrary, on the request of the police, the accused/non-petitioners were remanded to judicial custody.

The occurrence is of November, 2003. Almost three years have elapsed since then and it would not be appropriate at this stage to consider the question of police custody remand and, therefore, leaving the question of law raised in this petition open to be decided in an appropriate case, I do not think it proper to

interfere in the impugned order.

The criminal miscellaneous petition is, therefore, dismissed.

(H.R. PANWAR), J.

mcs